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West Des Moines City Council Proceedings
Monday, September 16, 2013

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, September 16, 2013 at 5:30 PM. Council members present were: J. Mickelson, T. Ohmart, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 1. Agenda. It was moved by Trimble, second by Mickelson to approve the agenda as presented.

Vote 13-354: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

City Manager Greg Sparks introduced McKinlee Ritter, who has been hired on a part-time basis as Interim Assistant to the City Manager. He reported a meeting was held on September 5th with the consultant on the 105th Street/Alice's Road Interchange. He also reported a public meet-and-greet was held for Althea Holcomb, Human Services Director, on September 11th. He stated the Attorney General's office has provided an opinion on the proposed establishment of a storm sewer fee district(s), so the City can now move forward with that process.

Bret Hodne, Public Works Director, introduced Larry Stephens, President-elect for the APWA, who presented the APWA Donald C. Stone Excellence in Education Award to Matt Dolan, Public Works Operations Specialist.

Council member Ohmart reported he attended a meeting of the Tomorrow Plan Steering Committee, where the final draft of the Tomorrow Plan was approved with the removal of the reference to tax base sharing, which was then forwarded to the MPO Executive Committee for consideration. He stated the Tomorrow Plan Steering Committee also approved a model Resolution of Support for the Tomorrow Plan that will be provided to metro communities who will be encouraged to adopt it.

Council member Trimble reported the MPO Surface Transportation Program Funding Subcommittee has allocated \$350,000 to the Grand Avenue Improvements Project, which will fund Phase 5, and \$88,000 for Phase 4 of the SW Connector, which is the construction of trails.

Council member Trevillyan reported the First Annual Illumifest Car Show will be held on September 28th from 11 a.m. to 4 p.m. He also stated he participated in the Snow Plow Rodeo last Thursday.

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Council member Sandager reported he attended a BRAVO Board meeting, where an update was given on the recruitment process for a new Executive Director. He also reported BRAVO's Capital Campaign and Project Grant will no longer have the yearly funding limit of \$25,000 per organization, and grant applications are due by November 6th. He also attended a Metro Advisory Council meeting, where discussion was held on sending MAC representatives out to give reports to City Councils.

Mayor Gaer thanked everyone that had expressed support and condolences on the recent passing of his father, Kent Gaer.

On Item 4. Consent Agenda.

Council members pulled Items 4(g), 4(i), and 4(n) for discussion. It was moved by Ohmart, second by Sandager to approve the consent agenda as amended.

- a. Approval of Minutes of September 3, 2013 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Cabaret West Des Moines, LLC, d/b/a Cabaret, 560 Prairie View Dr. Suite 105 - Class LC Liquor License Extension of Outdoor Service - September 27, 2013 - New
 - 2. Casey's Marketing Company d/b/a Casey's General Store #2297, 108 8th Street - Class BC Permit with Sunday Sales - Renewal
 - 3. Embassy Club West, LLC, d/b/a Embassy West - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
 - 4. Cookfly, Inc., d/b/a Jimmy's Big 10, 1238 8th Street - Class LC Liquor License Extension of Outdoor Service - September 28, 2013 - New
 - 5. Lodge of Ashworth, Inc., d/b/a The Lodge of Ashworth Club, 909 Ashworth Road - Class LC Liquor License with Sunday Sales, Living Quarters, Outdoor Service, and Catering Privileges - Renewal
 - 6. International Event Center, Inc., d/b/a Val Air, 301 Ashworth Road - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
- d. Approval of Extended Sound Permit - The Keg Stand, 3530 Westown Parkway - October 5, 2013
- e. Approval of Fireworks Displays - Valley High School Homecoming Football Game, September 20, 2013 and IllumiFest, September 28, 2013
- f. Approval of Change Order - 2013 Playground Project, #2
- h. Approval of Contracts:
 - 1. LIHEAP - Human Services
 - 2. Purchase and Installation of Artwork
- j. Approval of Engagement for Recruitment Services

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- k. Approval of Professional Services Agreement Amendments:
 - 1. Public Works, Public Safety Station 19 and Fire Station 22 Mechanical System Improvements, Amendment #1
 - 2. City Facilities Exterior Lighting Retrofit - Phase 1, Amendment #1
- l. Order Construction - Public Safety Station 19 - Communication Tower
- m. Accept Work:
 - 1. 2012 Pavement Joint Crack Sealing Program
 - 2. 2013 Playground Project
- o. Resolution - Approval of Professional Services Agreements:
 - 1. Code Enforcement Services - Various Locations
 - 2. WestCom Equipment Room at Plymouth Place - Cooling System Improvements
 - 3. Library and Law Enforcement Center HVAC Improvements
- p. Approval of FY 2012-13 Iowa Department of Transportation City Street Financial Report
- q. Approval and Acceptance of Overland Flowage Easement - Outlot V, Village of Ponderosa
- r. Approving Compensation - City Attorney
- s. Proclamation - American Business Women's Day - September 22, 2013

Vote 13-355: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes

Motion carried.

On Item 4(g) Acceptance of Gift: Artwork

Council member Mickelson stated he is pleased to see the success of public art in West Des Moines, and he expressed appreciation to Gordon Smith for providing funds to allow the City to purchase this piece of art.

The Mayor and Council expressed appreciation to Gordon Smith and requested that staff send him a letter to thank him on behalf of the elected body.

It was moved by Mickelson, second by Sandager to approve Item 4(g) Acceptance of Gift: Artwork.

Vote 13-356: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes

Motion carried.

On Item 4(i) Approval of Issuance - Request for Proposals - Facility Management Services

Council member Trevillyan inquired if the RFP addresses all the miscellaneous tasks currently performed by the City's maintenance personnel.

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Bret Hodne, Public Works Director, stated the City's maintenance personnel were included in the process of drafting the RFP to ensure the miscellaneous tasks did not get left out. He stated it has also been reviewed by multiple City staff.

It was moved by Trevillyan, second by Mickelson to approve Item 4(i) Approval of Issuance - Request for Proposals - Facility Management Services.

Vote 13-357: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(n) Acceptance of Iowa Clean Air Attainment Program (ICAAP) Funds - Traffic Adaptive Signal Controls on 22nd Street

Council member Trimble expressed appreciation to Transportation Engineer Jim Dickinson for his efforts in seeking these grant funds to improve traffic flow in West Des Moines.

It was moved by Trimble, second by Sandager to approve Item 4(n) Acceptance of Iowa Clean Air Attainment Program (ICAAP) Funds - Traffic Adaptive Signal Controls on 22nd Street.

Vote 13-358: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

Mayor Gaer read Proclamation - American Business Women's Day - September 22, 2013

On Item 5(a) Fox Valley, south and west of South Orilla Road and Adams Street - Rezone 2 acres of Property from Medium Density Residential (RM-8) to Single Family Residential (RS-10), initiated by the Charles I. & Ruth Colby National Development Trust

It was moved by Trimble, second by Sandager to consider the second reading of the ordinance.

Vote 13-359: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Sandager to approve the second reading of the ordinance.

Vote 13-360: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble, second by Sandager to waive the third reading and adopt the ordinance in final form.

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Vote 13-361: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) Youth Baseball Services and Use of Parks and Recreation Premises - Agreement with Sportsplex West, LLC, initiated by the City of West Des Moines

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Agreement.

Council member Trimble stated the transition to Sportsplex West so far this year has been fairly seamless and he is glad to see this agreement going forward.

Council member Ohmart inquired about the term of the agreement.

Gary Scott, Parks and Recreation Director, stated it is a five-year agreement, but both parties have a provision to terminate early if certain conditions are not being met.

Vote 13-362: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Raccoon River Park Archery Facility, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on August 30, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Joiner Construction Co., Inc. and Approval of Change Order #1

Council member Trimble inquired what is being cut out of the original specifications to bring down the project cost.

Mr. Scott responded the storage room is being removed, but it can be added later.

Council member Trimble inquired about the facility's ability to have tournaments.

Mr. Scott responded the facility could have tournaments, although it will initially only have 40-yard targets and twelve shooting spaces, but it is designed to be expanded and include 100-yard targets, which is the Olympic regulation distance.

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Council member Mickelson inquired if any corporate sponsors will be donating funds for this project.

Mr. Scott responded Scheels has made an initial verbal commitment to donate and an individual has expressed interest in donating a small amount as well.

Vote 13-363: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Hawthorne Plaza Plat 2, 9250 University Avenue - Replat Outlot X Hawthorne Plaza into One Lot for Commercial Development and One Public Street Lot, initiated by Hawthorne Plaza, LLC

It was moved by Sandager, second by Trimble to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 13-364: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Bella Terra, 800 South 68th Street - Development of 24 Townhomes within 4 Buildings and 96 Apartments within 2 3-story Buildings, initiated by Build to Suit, Inc

It was moved by Sandager, second by Trimble to adopt Resolution - Approval of Overlay District Site Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. Prior to issuance of a building permit for above ground construction (footing and foundation permit allowed), the applicant/property owner executing a Public Storm Sewer Easement;
2. Prior to issuance of a building permit for above ground construction (footing and foundation permit allowed), the applicant/property owner executing a Parkland Dedication Agreement;
3. Prior to issuance of a building permit for above ground construction (footing and foundation permit allowed), the applicant/property owner executing a Hold Harmless agreement releasing the city from any damages to private structures, paving, landscaping, etc. within the public storm sewer easement area should the city need to repair or perform maintenance on the sewer;
4. Prior to issuance of a building permit for above ground construction (footing and foundation permit allowed), the applicant/property owner executing a Storm Water Management Facility Maintenance Agreement for detention facilities;

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5. Applicant protecting the existing City trail and agreeing at the applicant's expense, to repair to City standards any damage caused during construction of the site;
6. Applicant installing public sidewalks along S68th Street which abuts the applicant's parcel in conjunction with the development of the site; and,
7. Prior to issuance of the final occupancy permit for the last constructed dwelling building, the applicant providing as-built documentation verifying that the storm water detention system has been constructed as designed.

Vote 13-365: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Polk County Right-of-Way, generally located in Sections 30, 31 and 32 of Bloomfield Township - Potential Annexation and/or Transfer of Jurisdiction, initiated by Polk County

Mayor Gaer noted there was a split recommendation at the Public Works Subcommittee meeting and staff's recommendation is to revise the existing 28E agreement to remove the salt reimbursement requirement and have the City assume all routine maintenance requirements under the terms of the existing 28E agreement, with major maintenance items continuing to be shared between the jurisdictions.

Bret Hodne, Public Works Director, stated Polk County had asked the City to consider assuming jurisdiction of the County's roadways located in the southwest corner of the county. He stated the City has three options: 1) leave the 28E agreement as-is with Polk County required to provide 60 tons of salt for the City to perform minor routine maintenance activities; 2) remove the salt reimbursement requirement from the 28E agreement and continue to perform the minor routine maintenance at no cost to Polk County; 3) annex the Polk County right-of-way, even though there is no development on the adjacent properties. He stated Public Work's recommendation is Option #2, because it would be unusual for the City to annex right-of-way with no development on the adjacent properties. He noted Council member Ohmart, at the Public Works Subcommittee meeting, had expressed his preference for Option #3, because of everything Polk County has recently done for the City.

Mayor Gaer noted the City must be careful in this situation, because the city is in four counties, and the other three could request the same treatment.

Council member Ohmart noted Polk County is currently constructing the Westside Community Center in West Des Moines, which is a \$2.2 million facility; they've contributed \$90,000 for trails in West Des Moines; they've contributed grant funds to the archery range; and they've offered \$400,000 for the Southwest Connector. He stated if any other county has provided the same type of assistance, the Council could be open to considering a similar agreement with them.

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He noted these roadways are 10 miles from Polk County's nearest jurisdictional territory, and he believes it is a reasonable request.

Mr. Hodne noted another unique matter is that Des Moines Water Works owns some of the property adjacent to a portion of the roadway, which could delay the jurisdictional switch to West Des Moines property. He stated staff has confirmed with Des Moines Water Works and Polk County that, if the City does annex the right-of-way, it would not be inheriting any responsibility for the dam.

It was moved by Ohmart, second by Sandager to adopt Motion - Approval of Option #3, directing staff to annex the County owned right-of-way and assume full responsibility for roadway maintenance including major and minor repairs.

Council member Trimble pointed out this is only 0.6 miles of roadway.

Council member Trevillyan stated he originally did not support Option #3, due to his concerns the City might be inheriting responsibility for the dam. Now that it has been confirmed that will not be the case, he has changed his position and is now supportive of Option #3.

Vote 13-366: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(d) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 2 (Through Streets Stop Required) - Sugar Creek Drive (South 88th Street to South 95th Street), South 93rd Street (Stagecoach Drive to Sugar Creek Drive), and South 93rd Street (Sugar Creek Drive to Booneville Road), initiated by the City of West Des Moines

It was moved by Trevillyan, second by Sandager to consider the first reading of the ordinance.

Council member Ohmart stated the Public Works Subcommittee has requested City staff to bring forward these recommendations for stop signs when they see a need for them, and that is where these recommendations came from.

Council member Trimble stated he has heard a resident in this area complain about speeding, so hopefully these stop signs will help with that problem.

Vote 13-367: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the first reading of the ordinance.

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Vote 13-368: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(e) Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 9 (Traffic Schedules), Section 5 (No Parking Zones) - south side of Sylvania Drive (from 32nd Street to 130 feet west), west side of 32nd Street (from Sylvania Drive to 170 feet south), and south side of Woodland Avenue (from 20th Street to 20th Place), initiated by the City of West Des Moines

It was moved by Trevillyan, second by Mickelson to consider the first reading of the ordinance.

Vote 13-369: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the first reading of the ordinance.

Vote 13-370: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9 - Other Matters

Paul Dorsey, 621 Reed Court, addressed the Council on behalf of the Reed's Crossing residents. He reported on drainage issues in his neighborhood that are causing surface water to collect in people's yards. He stated the contractor that did grading work on one of the properties in the neighborhood had told him the grading was done in accordance with the plan drafted by Civil Engineering Consultants (CEC). He stated he found the original plan, which indicates the drainage was meant to flow in a northeasterly direction, but instead it is collecting in the yards, causing a foul odor and increased numbers of insects. He stated the home builders, Kimberly Homes and Orton Homes, have accepted no responsibility for the problems, claiming they graded the properties in accordance with the plans that were drafted by CEC and approved by the City Council. He reported a second issue is the amount of ground water in his neighborhood, as a foundation was dug ten days ago, now resulting in a couple feet of standing water, and he has experienced flooding in his basement and hits water in his garden and front yard after digging 18 inches. He speculated the groundwater may be a result of a broken or clogged field tile underground.

Brian Hemesath, Principal Engineer, stated he looked at the area last week and it appears there are groundwater issues in addition to the surface water issues. He stated, after looking at the plat drawn by CEC, he believes the intent was for storm water to run between the houses.

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Council member Ohmart inquired which of the two different drawings is certified.

Mr. Hemesath responded the drawing indicating the storm water should flow to the southeast was certified by the engineer.

Council member Trimble stated these drainage issues are totally unacceptable, and he inquired what recourse the City has to take action on this private matter.

City Manager Greg Sparks stated staff has discussed the matter, and doesn't see any liability on the City, but they have a lot of information to provide as the parties attempt to resolve the issue. He suggested the matter be sent to the Public Works Subcommittee, so the City can facilitate the discussion between the residents, CEC, and the home builders.

The Mayor and Council held discussion on the matter, expressing concerns about the challenge of determining which party is responsible for the problems, but also a desire to help facilitate the discussion to arrive at a solution.

Mayor Gaer requested staff include the matter on the next Public Works Subcommittee agenda for September 23rd and request that representatives from CEC and the home builders attend the meeting.

The meeting was adjourned at 6:41 p.m.

Respectfully submitted,

Ryan T. Jacobson
Deputy City Clerk

ATTEST:

Steven K. Gaer, Mayor